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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,569	04/05/2001	Wray Russ	033131-007	6498

7590 06/26/2003

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EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT PAPER NUMBER

2652

DATE MAILED: 06/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

9

Office Action Summary

Application No.

09/828,569

Applicant(s)

RUSS, WRAY

Examiner

William J. Klimowicz

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6 and 10-20 is/are allowed.
- 6) ☒ Claim(s) 1 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 16 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The corrected or substitute drawings were received on May 16, 2003. These drawings are accepted. The corrected drawings based on the red-ink changes are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubuit (US 5,549,444).

As per claim 1, Dubuit (US 5,549,444) discloses a memory storage disk handling system, comprising: an elevator pin (39, 48) mounted on an unshown base for lifting disks (11) (e.g., see COL. 2, line 67) into a stack (i.e., the disks (11) are lifted from a presentation device upward in a stacked manner); a servo motor (motor (40) which inherently includes a servo control via sensor (71) in order to turn motor on at a prescribed time, and turn it off at a prescribed time) attached to the device; and a linkage assembly (including an inherent gearing assembly not expressly

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shown but which must be provided in order to transmit power from motor (40) to pin (39), etc.) attached between the servo motor (39) and the elevator pin (47).

Additionally, as per claim 21, a base is provided having a position sensor (e.g., 46 and/or 71).

With regard to claims 1 and 21, although Dubuit (US 5,549,444) does not expressly depict a housing for enclosing his device, Official notice is taken that printer housings of the type of printer station disclosed by Dubuit (US 5,549,444) are notoriously old and well known and ubiquitous in the art; such Officially noticed fact being capable of instant and unquestionable demonstration as being well-known.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Dubuit (US 5,549,444) within a conventional housing.

The rationale is as follows: one of ordinary skill in the art would have been motivated to provide the device of Dubuit (US 5,549,444) within a conventional housing in order to protect the components of the device from the environment (e.g. minimize dirt, debris, contaminants to the device, etc.) as is well known, established and appreciated in the art.

Additionally, with regard to claims 22-24, although Dubuit (US 5,549,444) remains silent with respect to the particular type of sensor (e.g., optical - claim 23; mechanical - claim 22; or magnetic - claim 24), Official notice is taken that mechanical, optical and magnetic sensors as set forth in claims 22-24 of the instantly claimed invention are notoriously old and well known and ubiquitous in the art; such Officially noticed fact being capable of instant and unquestionable demonstration as being well-known.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the sensor (46 and/or 71) of Dubuit (US 5,549,444) with a conventional optical, mechanical or magnetic sensor as is known.

The rationale is as follows: one of ordinary skill in the art would have been motivated to provide the sensor (46 and/or 71) of Dubuit (US 5,549,444) with a conventional optical, mechanical or magnetic sensor as is known, in order to provide inexpensive and readily available sensors that function to identify a particular position of an object within the device of Dubuit (US 5,549,444) as is well known, established and appreciated in the art.

Response to Arguments

Applicant's arguments with respect to claims 1 and 21-24 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 2-6, 10-20 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

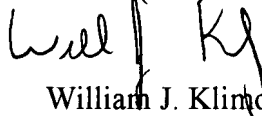
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.


William J. Klimowicz
Primary Examiner
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June 24, 2003